

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 63 (as enrolled)
Sponsor: Senator Bev Hammerstrom
Senate Committee: Finance
House Committee: Local Government and Urban Policy

PUBLIC ACT 698 of 2002

Date Completed: 1-6-03

RATIONALE

A register of deeds, who must be elected in each county under the State Constitution, is responsible for recording documents relating to land transactions and ownership, including different types of deeds, land contracts, mortgages, and liens. These records are essential for title searches and real estate transactions, and are maintained by the register of deeds for review or copy by the general public.

Over the last few years, the number of documents registers of deeds must process and maintain has increased significantly, and some register of deeds offices are not equipped to handle the increase. This can cause recording backlogs from several days to several months, which may lead to delays in clearing title to property and closing real estate deals. Some offices have implemented computerized index systems, while others still use handwritten ledgers to record every document. To address this situation, it was suggested that the fees for services performed by registers of deeds should be increased and a portion of the fees be deposited into an automation fund for the purpose of upgrading technology.

CONTENT

The bill amends the Revised Judicature Act to increase the fees a county register of deeds may charge for entering or recording a deed and searching for records or other files; require each county to establish an automation fund for technology upgrades; require each register of deeds to begin implementing procedures to process and make available all items recorded, compiled, or maintained by the register of deeds using

automated procedures and advanced technology within 90 days of the bill's effective date; and require each register of deeds to report to the Legislature on technological progress four years after the bill's effective date. The bill will take effect on March 31, 2003.

The bill increases the fees the county register of deeds may charge as follows:

- For entering and recording a deed, mortgage, or other instrument, from \$5 to \$8 for the first page, and from \$2 to \$3 for each additional page. The bill also requires a register of deeds to add \$3 to the recording fee (rather than \$1 to the page price) for any document that assigns or discharges more than one instrument.
- For searching records and files, from 10 cents to 50 cents for each year grantor/grantee searches are made. The bill also increases the minimum search fee from \$1 to \$5, except that the fee for tract index searches must be based on the cost of establishing and maintaining a tract index.
- For searching for every other paper, upon request, from 10 cents to \$1 for each paper examined.

The bill revises the definition of "page", which currently is "1 side of a single sheet of paper not exceeding 8-1/2 inches in width and 14 inches in length and not less than 13 (17 x 22--500) pound weight on which the printed or typed words are legible and not smaller than 8-point type". The new definition is "1 side of a single sheet of paper at least 8-1/2 inches by 11 inches in length and not exceeding 8-1/2 inches by 14 inches in length and not less than 20-pound weight".

The bill requires each county to establish an automation fund. Until December 31, 2006, each register of deeds must deposit \$5 of the total fee collected for each recording into the fund. The county treasurer must direct investment of the fund, and credit to it any interest and earnings. The register of deeds must spend the money in the fund to upgrade technology in the register of deeds office, with priority given to upgrading search capabilities. The bill specifies that upgrading includes the design and purchase of equipment and supplies, and implementation of systems and procedures that allow the register of deeds to receive, enter, record, certify, index, store, search, retrieve, copy, and otherwise process by automated procedures and advanced technology documents, instruments, abstracts, maps, plats, and other items recorded and maintained by the register of deeds.

Within 90 days after the bill's effective date, each register of deeds must begin implementing procedures to process and make available all items recorded, compiled, and maintained by the register of deeds using automated procedures and advanced technology, to the maximum extent feasible using the automation fund.

Four years after the bill's effective date, each register of deeds must submit to the Legislature a report addressing the progress that has been made in achieving a goal of timely processing of recordable instruments, and the extent to which the register of deeds has made records computer accessible via Internet websites or other on-line media.

MCL 600.2567 & 600.2568

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill will ensure a stable funding source for technological upgrades to assist registers of deeds in improving their efficiency. With this supplemental source of funding to help cover the cost of purchasing and installing new equipment, registers of deeds will be able to process records by computer instead of relying on microfilm or, in some cases, manually

recording everything. In addition to reducing the time needed to process each record, automated systems will provide an electronic backup record of every document filed with a register of deeds, as well as provide for uniformity between counties. These technological upgrades will result in overall better service to the public.

Increasing the fees per document and dedicating a portion of the fees to automation funds make more sense than raising county taxes. Counties that would like to fund upgrades in the register of deeds office often do not have the financial resources to do so, and otherwise would have to propose a millage increase. This would most likely be unpopular with voters, who already face requests for tax increases to support schools, libraries, senior citizen and community centers, and other community services. Under the bill, only the people who benefit from the upgrades will pay for them. The increase is reasonable, since the recording fees have not changed since 1991 and the fees in Michigan reportedly are much lower than those in other states.

Response: It is unclear whether the fee increases will raise sufficient funds to pay for appreciable improvements in technology that will result in a noticeable improvement in service. Especially in a small county where few documents are recorded, it is possible that the per-document increase will be insignificant.

Opposing Argument

At more than a 100% increase, the fees are unreasonable. Lenders, mortgage brokers, and bankers in particular will pay the majority of the cost, since they have so many documents to file with registers of deeds. Technological upgrades are necessary, but the cost should not be passed on to the people who have no choice but to use these services.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill will have no fiscal impact on the State. The bill will increase revenues received by a register of deeds for recording documents between 50% and 70%, depending on a document's length. Revenues for searching records also will increase 500% to 1,000%.

Data are not currently available on total revenues received by registers of deeds in Michigan for providing these services, so the dollar effect of the bill's changes currently is unknown. The effect will vary by county due to differences in socioeconomic characteristics; in some counties with small populations, the bill's impact could be minimal. For example, the Michigan Association of Realtors reports 1,595 home sales in the Upper Peninsula in 2001, compared with 11,033 in the Grand Rapids area and 16,317 in Macomb County. If each of these home sales required a two-page document to be recorded with the county register of deeds, the proposed fee increases will have increased revenues among all 15 counties in the Upper Peninsula by \$14,355 (or less than \$1,000 per county), compared with an increase of \$99,297 in Grand Rapids and \$146,853 in Macomb County.

A portion of the increased fees for recording documents will be deposited in a special automation fund, which could be used only to upgrade technology in the register of deeds office. Consequently, the bill also will increase restricted revenues for registers of deeds by an unknown amount.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.